

18281

1/32

18281

KENYA

UGANDA

CO 533/426

K. - U. - RLY. COUNCIL

Appointment of Officers Members

DOB

See 16324/30

quent

97.	26/4
Depo	28/7
W. J. J. J.	2
In. Men	3/10
W. J. J.	7.10
Swiss	12.10
ad. J. J.	

18281/32 I. A. Par. Scott (Uganda) Conf. (2) — D.F. 8. 33.

Kenya-Uganda No. Copy of a resolution passed by the Uganda Chamber of Commerce expressing dissatisfaction at not being invited to nominate, for the Gov. Council, one of the two unofficial members. States the fact practice in the matter: refer to the papers of appl. Notes in the Gov. by the Transport Com. suggests that the Chamber be informed that it is not in the public interest to fetter the Gov. discretion in the matter.

Section 8(1) of the Kenya and Uganda (Transport) ^(Amendment) Ordinance 1927 lays down that the not more than 2 unofficial members representing the Protectorate of Uganda shall be appointed by the Governor in Council of Uganda.

There is ∴ no legal necessity for the former to ask the local Chamber of Commerce for nomination details - and, although it would normally be clearly desirable to consult Commercial interests in the matter, it seems doubtful if any good purpose would have been served by so doing in the present case when it was probable that the nominee would not have been acceptable.

? Request ∴ that the Uganda Chamber of Commerce may be informed that the appl. of ² unofficial members to the K. U. Railway Advisory Council made with the former in Council and that the S. G. Council advised the right of the Chamber

that the Chamber has any prescriptive right

18281/32 J. Affar. Scott (Uganda) Conf. (2) — Dec 8. 33.

Kenya-Uganda No. Copy of a resolution passed by the Uganda Chamber of Commerce expressing dissatisfaction at not being invited to nominate, for the Gov. Comm. one of the two unofficial members. State the fact practice in the matter: refer to the powers of appt. held in the Gov. by the Transport Officer suggests that the Chamber be informed that it is not in the public interest to fetter the Gov's discretion in the matter.

Section 8(1) of the Kenya and Uganda (Transport) ^(Amendment) Ordinance 1927 lays down that the not more than 2 unofficial members representing the Protectorate of Uganda shall be appointed by the Governor in Council of Uganda.

There is ∴ no legal necessity for the Governor to ask the local Chamber of Commerce for recommendations - and, although it would normally be clearly desirable to consult Commercial interests in the matter, it seems doubtful if any good purpose would have been served by so doing in the present case when it was probable that the nominee would not have been acceptable.

? Request ∴ that the Uganda Chamber of Commerce may be informed that the appt. of unofficial members to the K.U. Railway Advisory Council rests with the Governor in Council and that the S.G.S. cannot advise the right of the Chamber to such appts.

that the Chamber has any prescriptive right

It is not clear that the fact
recognition that the appl. notes
not with the Governor but with the
Governor & Council - the letter of
the 28th of May enclosed with 1 does not
state the case correctly.

? When a copy of the minutes to
the Executive Council arrives it should
be accompanied with a note explaining
if the appls were properly made.

H. P. P. P. P.
26/9/32

The Uganda C. P. L. receives a copy on
the minutes for their translation letter of
11th July, from Sir W. W. Brown they would
doubtless have received it.

I prefer Mr. P. P. P.'s formula to
that suggested by Mr. Scott.

P. P. P.
28.9.32

It is somewhat unfortunate that the
Government started the system of asking the
Chamber to "nominate", but I think 'A' on the first
page of the enclosures goes too far. A somewhat
similar question came up recently in connection with
the Legislative Council in Zanzibar and it was
decided to deviate from the practice of consulting
the local bodies, and in the case of the Uganda
Council

Notes on
22/10/32 K. J. P.

22/10/32 Uganda
g. b. v. - reports
e. H.

(24521/32)

I
21087/31

Council it is the accepted view that no seats on
the Council are reserved for representatives of any
particular section of the community. It was also
the view of the Joint Select Committee that
Unofficial Members (either elected or nominated) sit
in the capacity of advisers. How much rather than
do these considerations apply in the case of an
advisory Council. As I have still another alternative
to suggest I put it in the form of a draft.

J. P. P.

7/10/32

As I have altered the draft, that
looks fine

W. L. S.
7.10.32

Lord Alington

I have not prepared
reply, but that you ought to
see

S. H. B.

14.10.32

I agree

7/10/32

at mel

2 To Gov. Uga. Conf. — 20 OCT 1932
(1 Annual)

Notes.

A large, stylized handwritten signature or set of initials, possibly reading 'L. H. ...', written in dark ink.

C. O.

18-281/32. 4

4
2
with
file



Mr. Allen, 7/10

Mr.

Mr.

Downing Street,

Mr. Parkinson.

20 October, 1932.

Mr. Tomlinson.

Sir C. Bottomley, 7.10.

Sir J. Shuckburgh.

Sir,

Permt. U.S. of S. 8/10 14.10.32
Parly. U.S. of S. 2. 17.10.32 Johnson
Secretary of State.

I have the honour to

acknowledge the receipt of your

confidential (2) despatch of the

24th August with regard to the

resolution of the Uganda Chamber

of Commerce on the subject of the

appointment of Unofficial Members to

the Railway Advisory Council.

DRAFT. Cons: 8 minutes

UGANDA

CONFIDENTIAL

O.A.G.

2. Under the Transport

Order-in-Council the appointment of

Unofficial Members rests with the

Governor-in-Council; ^{and} but while it is

true that the Uganda Chamber of Commerce

has been asked from time to time to

nominate members for the Governor's

approval, I am unable to admit the

right of any public body to make

nominations

nominations for the Council; *in the sense that*
such nominations should be binding on the Gov. in Council.
~~neither am I prepared to give any~~

directions as to the procedure to
be adopted in the selection of
members as I see no ground for
interfering with the discretion of
the Governor-in-Council.

*must be understood, both as to the
steps to be taken to
ascertain the names
of gentlemen suitable
for selection for the
Railway Council and
as to the actual choice
of those who are appointed.*

3. I request that the Uganda
Chamber of Commerce may be informed
in this sense.

I have, etc.

(Sgd) P CUNLIFFE-LISTER.

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(Sgd) P CUNLIFFE-LISTER.

18281/32⁵
1



Uganda Protectorate

GOVERNMENT HOUSE,
UGANDA.

No. _____

Confidential. (2) 24th August, 1932.

RECEIVED
19 SEP 1932
Sir C O

Ans 40/02/17/27 Kew

Answer Conf. 20 OCT 1932

I have the honour to inform you that the Uganda Chamber of Commerce have recorded, by means of a resolution, their dissatisfaction at not being invited to nominate for the Governor's consideration, in accordance with pre-existing practice, one of the two unofficial members who were appointed by Sir William Gowers to the Railway Council shortly before he left the Protectorate. The Chamber has requested that their protest may be communicated to you, and I accordingly enclose herewith a copy of the Chamber's letter of 11th July, 1932, embodying their resolution.

2. It will be seen from the enclosed copies of the letters from the Secretariat, to which the Chamber refer in paragraphs 3 and 4 of their petition, that it was at one time the practice formally to consult the Uganda Chamber of Commerce with regard to the nomination of one of the two unofficial members of the Council, both with regard to temporary as well as permanent appointments. This

THE RIGHT HONOURABLE THE
SECRETARY OF STATE FOR THE COLONIES.

etc. etc. etc.

18281/32⁵
1



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UGANDA.

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Ans 40/217/27 Ken

Answered Conf. 20 OCT 1932

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THE RIGHT HONOURABLE THE
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procedure has, however, recently been modified, as in 1930 and again in 1931 temporary unofficial appointments were made without reference to the Chamber and no protest was made by the Chamber on either of these occasions.

3. I must explain as briefly as possible the circumstances in which the two appointments now under discussion were made early in the year. Hitherto both the unofficial members of the Council have invariably been residents of Kampala and Members of the Uganda Chamber of Commerce. In February 1931 the Eastern Province Chamber of Commerce complained of this position to Sir William Gowers when on tour in that Province and requested that consideration might be given to the appointment of a member from the Eastern side of the Nile when next a vacancy occurred. Similar representations were also made to the Government by the Eastern Province Chamber of Commerce in the matter of representation on the Legislative Council. Sir William Gowers received these representations with sympathy and under his instructions informal enquiry was made from the leading members of the Eastern Province Chamber of Commerce to obtain the names of gentlemen resident in the Eastern Province whom the Chamber would regard as suitable representatives of the public interest to serve on Legislative Council. The names of four gentlemen were thus informally obtained and of these gentlemen Mr E. D. Reynolds, local representative of the British Cotton Growing Association, appeared to Sir William Gowers to be conspicuously the most suitable. Mr Reynolds

has, as you are aware, recently been appointed an unofficial member of Legislative Council accordingly.

4. When new appointments for a period of two years to the Railway Advisory Council fell due in March of this year, Sir William Gowers decided to appoint Mr E.D.Reynolds as one of the unofficial members and, since Mr Reynolds had had no previous experience on that Council, to renew the appointment of Dr H. H. Hunter who had served for many years in that capacity and is by far the most experienced member of the public in railway matters. I regret that in submitting the papers, as Acting Chief Secretary, to Sir William Gowers, I failed to draw his attention to the fact that it had previously been the practice formally to consult the Uganda Chamber of Commerce with regard to one of the permanent appointments, and I am accordingly not in a position to say whether Sir William Gowers also overlooked this point or whether, having made up his mind that these two appointments were definitely the most suitable in the public interest, he departed advisedly from previous practice. The position was however that had the Uganda Chamber of Commerce been consulted that body would probably have nominated a member whose presence on the Council would not have been likely to promote the harmonious discussion of difficult questions on the Council. Moreover the effect of the appointments made by Sir William Gowers was to renew the appointment of Dr. Hunter who has always been accepted as the Governor's nominee and to appoint a new member acceptable to a public body, the only difference in procedure being that the public body in question was the Eastern Province Chamber of Commerce and that the views of that body

were ascertained informally and not by a formal invitation to nominate a candidate. It should be noted that the Eastern Province Chamber of Commerce has not associated itself with the Uganda Chamber in these representations. Assuming, therefore, that Sir William Gowers had overlooked former procedure, I have little doubt that had his attention been drawn to this point, he would none the less have decided on this occasion to exercise the absolute power of appointment vested in him by the Transport Order in Council.

5. In any case I consider that it would have been most undesirable for me during my temporary administration of the Government to give the Uganda Chamber of Commerce any assurance as to future procedure in appointing unofficial members to the Council which might subsequently be quoted as binding on the Government, and my refusal to give this assurance in a letter dated 28th May, a copy of which is enclosed, has led to the present representations. Nor do I think it desirable that any assurance should be given in accordance with their request. The Uganda Chamber of Commerce are only one of several public bodies which could not be ignored if the principle of formal consultation with any such body were admitted. The Cotton Association, the Central Council of Indian Associations and the Uganda Planters' Association, as well as the Eastern Province Chamber of Commerce, might all reasonably claim a right to nominate a candidate if the principle were accepted as established. It will be seen that the Chamber's demands go beyond a request to be permitted to submit a name or names for the Governor's consideration and aim at a recognition of the right of definite appointment by public bodies. It is clear that by the latter method an appointment might at any time be made which would be

57645/35 Kenya
(W.A.C.C.)

Copy New.

definitely undesirable and opposed to the public interest in the widest sense, and I need not illustrate this by quoting present instances.

6. I would suggest for your consideration that the reply to the Chamber's representations should be that while it must be the objective of the Government to appoint as unofficial members of the Council men of acknowledged position, who are entitled to the confidence of the public, both non-native and native, it would not be in the public interest to derogate from the Governor's powers of appointment or to fetter his discretion as to the manner in which the objective referred to above can best be attained.

I have the honour to be,

Sir,

Your most obedient, humble servant,



ACTING GOVERNOR.

THE UGANDA CHAMBER OF COMMERCE.

Kampala

11th July, 1932.

The Honourable,
The Chief Secretary to Government,
ENTEBBE

Sir,

We have the honour to acknowledge receipt of your letter No.N.12 dated the 18th June, 1932 which was placed before the Chamber at the adjourned meeting on the 21st June, 1932 and was received with marked dissatisfaction.

2...After a full discussion the following resolution was passed unanimously:-

"That this Chamber deprecates in the strongest terms
"the retrograde step of Government in the denial of
"the right, previously acknowledged, of the unofficial
"community as represented by the public bodies of
"Uganda to put forward names as representatives of the
"unofficial community for nomination to the Railway
"Advisory Council and requests Government unequivocally
"to admit this right and that the decision
"of this Chamber be communicated to the Secretary of
"State through the Chief Secretary".

3...The Chamber regards the present appointment of Mr. Reynolds not from motives in any way antagonistic to that gentleman but as a departure from what had been considered as an accepted policy, namely, to quote your letter of the 27th January, 1926, that the Chamber shall "nominate the second unofficial member for the Governor's approval", or alternatively that the Chamber should be asked to nominate more names than one from whom the Governor may make his choice. This policy would appear to have been not only followed but extended to both the unofficial members, vide your letter of the 26th November, 1926.

4...In your letter of the 8th September, 1927 you deemed it expedient to explain the temporary appointment of Mr. Folkes without the prior nomination of the Chamber; but in the same letter asked for a further nomination, a nomination, moreover in this instance not expressed to be subject to the Governor's approval.,

5...Although from the terms of the Order in Council 1925 and for the lack of statutory constitution of the unofficial element of Uganda we concede the necessity of the Governor's approval in that he is the ultimate appointer of members of the Council, we submit that the

right of the Chamber to nominate for His Excellency's formal approval has been established from the very inception of the Railway Council as at present constituted and we submit further that that approval should follow as a matter of course and subject to a discretion that must be exercised judicially and not arbitrarily.

6...It follows from the above remarks that the Chamber regards the attitude of Government as an unwarranted retrogression at a time when conditions demand the converse and require an even closer co-operation than heretofore between the official and unofficial elements in the control both of the Railway as well as the Protectorate.

7...It is the view of the Chamber that the very wording of Section 8 (1) of the Order in Council 1927 clearly contemplates that the official as well as the unofficial view of this Protectorate shall be represented on the Council and that therefore an official appointee, even though from an unofficial class cannot possibly be held to be the representative of the Protectorate's unofficial element. It is, moreover, open to the fatal objection, however much any given appointment may be justified or prove justified, of creating a precedent that may well result in the appointment of mere puppets. This Chamber submits, therefore, that until such time as a better means can be devised for a fuller expression of unofficial public opinion, the Uganda Chamber of Commerce and other public bodies should have the right to make nominations of unofficial members, as in the past.

8...Finally we are directed to request you to comply with the last part of the resolution and to remit a copy of the resolution with all relevant documents to the Right Hon. The Secretary of State for the Colonies.

9...It is the sincere hope of the Chamber that this matter may receive the most careful consideration of Government and that, as a result, the request of the Chamber may be acceded to.

We have the honour to be, Sir,
Your obedient Servants,

MOODY & TILBROCK LTD

(Sgd.) C. Moody... Director.

Secretaries.

8167

27th January, 1926.

Sir,

I am directed by the Governor to inform you that the new Railway Order-in-Council has been issued and will shortly be brought into operation. The constitution of the Kenya and Uganda Railway Advisory Council consists of:-

- (a) Not more than two official members representing the Colony and Protectorate of Kenya.
- (b) Not more than two official members representing the Protectorate of Uganda.
- (c) Not more than two unofficial members representing the Colony and Protectorate of Kenya.
- (d) Not more than two unofficial members representing the Protectorate of Uganda.

2. His Excellency proposes to ask the Honourable Dr.H.H.Runter, unofficial member of the Legislative Council to accept a seat as one of the unofficial members for Uganda and I am to request the members of the Uganda Chamber of Commerce to nominate the second unofficial member for the Governor's approval.

3. I am to add that it is proposed to hold the first meeting of the new Council in Uganda on or about the 16th February next, and I should therefore be glad to receive the Chamber's nomination at an early date.

I have the honour to be
Sir,
Your obedient servant,

(sgd) A. B. Jarvis.

The Secretary,
- Uganda Chamber of Commerce,
P.O.Box 97,
Kampala.

6351

26th November, 1926

Sir,

I am directed by the Acting Governor to request that your Chamber will be so good as to nominate, for His Excellency's approval, an Unofficial Member to serve on the Inter-Colonial Railway Council in the place of the Honourable Dr. H. H. Hunter during his absence on leave.

2. As a meeting of the Railway Council is summoned to take place at an early date, I am to request you to treat this matter as urgent.

I have the honour to be,

Sir,

Your obedient servant,

(sgd) S. E. Sullivan.

• for ACTING CHIEF SECRETARY.

The President,

The Chamber of Commerce,

Kampala.

6351.

6351

8th September 1927

Sir,

I am directed to request that your Chamber will be so good as to nominate, for the Governor's approval, a member to serve on the Railway Advisory Council in the place of the Honourable A.J.M.Cameron during his absence on leave.

2. The appointment of Mr.A.S.Folkes notified in the Gazette of 31st August was made without reference to your Chamber as it was necessary to fill the vacancy without delay, and Mr.Folkes, from previous service on the Council, was familiar with the matters under discussion. Under the terms of the Order-in-Council the notice of appointment has to take the form as published in the notice just mentioned, even though as in this case the appointment is intended to cover one particular meeting only. As Mr.Folkes has stated that he will be unable to attend further meetings of the Council I shall be glad to receive your Chamber's nomination as soon as convenient.

I have the honour to be,

Sir,

Your obedient servant,

(sgd) P.W.PERRYMAN

ACTING CHIEF SECRETARY

The Secretary,

The Uganda Chamber of Commerce,

Kampala.

28th May, 1932.

Gentlemen,

I am directed to acknowledge the receipt of your letter dated the 12th May, 1932, on the subject of the appointment of Mr. E.D. Reynolds to serve as an Unofficial Member of the Railway Advisory Council.

2. I am to inform you that Sir William Gowers after careful consideration decided that the appointments of Dr. Hunter and Mr. Reynolds were the most suitable that could be made and made these appointments accordingly.

3. Discretion as to whether or not it is expedient that any public body should be formally consulted with regard to appointments, or to any particular appointment, to the Railway Advisory Council lies of course with the Governor. It is true that your Chamber has on former occasions been invited to recommend the name of a Member and on others has volunteered such recommendations on its own initiative. The two most recent temporary appointments were made without the views of your Chamber having been invited or received.

4. I am to thank your Chamber for the assistance given in the past in this matter, but

I am

The Secretary,

The Uganda Chamber of Commerce,

P.O. Box 51, Kampala.

16
End

I am to say that the Acting Governor regrets that he is not prepared to give any undertaking that your Chamber or in the alternative any other public body will invariably be consulted with regard to the appointment of an Unefficial Member to this Council.

I have the honour to be,
Gentlemen,
Your obedient servant,

(sgd) A.E.WEATHERHEAD

ACTING CHIEF SECRETARY.